

Case 3:22-cv-00055

**EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

**FRED HANEY, *et al.*,  
individually, and on behalf of  
all others similarly situated,**

**Plaintiffs,**

V.

**Civil Action No. 3:22-cv-55**

**GENWORTH LIFE INSURANCE  
COMPANY, *et al.*,**

## Defendants.

**AFFIDAVIT OF JAMES B. THORSEN, ESQUIRE**

COMMONWEALTH OF VIRGINIA }  
CITY OF RICHMOND } To-wit:

BEFORE ME, the undersigned, a Notary Public in and for the Jurisdiction aforesaid, personally appeared James B. Thorsen, who after being duly sworn, deposes and says as follows:

1. I, James B. Thorsen, am a partner in the law firm ThorsenAllen LLP, in Richmond, Virginia. I have been licensed to practice law in Virginia since September 22, 1978 (VSB No. 18113), having graduated from the University of Richmond School of Law in May of 1978 and graduating from Virginia Commonwealth University in 1974. At all times for 44 years, I have maintained my law offices in the City of Richmond, Virginia. I am admitted to all the Courts of the Commonwealth of Virginia and all the Federal Courts in the Commonwealth of Virginia (Eastern and Western Districts and United States Bankruptcy Court), the Fourth Circuit Court of Appeals, and Supreme Court of the United States.

2. I have practiced in the United States Federal Court in Richmond, Virginia since early 1979 in the complex civil litigation fields of federal employment litigation including FSLA class action cases before the Honorable Robert E. Payne, civil rights, malicious prosecution, defamation, and personal injury, and approximately 75 percent of my law practice has been in this Court. The balance of my law practice is in the Courts of the Commonwealth of Virginia in the areas of litigation including criminal, construction, and business cases.

3. My first major trial was a federal case that resulted in a successful three-day bench trial before the Honorable D. Dorch Warner in January of 1980, involving a public employee First Amendment speech retaliation discharge case against the Virginia Department of Correction and individual employees in which damages and attorney fees were awarded. I thereafter tried numerous federal criminal and civil cases before this Court, including a weeklong murder jury trial and other bench criminal and civil trials before the Honorable Judge Robert R. Merhige, Jr. The civil cases that I tried to juries and resulting in verdicts include a multi-day discrimination/civil rights/defamation case representing Valerie Vaughan in March 1996 for a verdict of \$1.05 million (Spencer, Judge.); a multi-day civil RICO jury action representing Transition, Inc. in January 2002 for over \$8 Million (Dohnal, Judge.); a multi-day Title VII jury trial involving a reverse race discrimination case in *Hartnett v. Brunswick County Public Schools*, 3:08-cv-128-HEH in November 2008 for \$200,000.00, and Judge Hudson approved all attorney fees at the then rate of \$375.00 an hour for 260 hours in that case and awarded \$107,000 in attorney fees (12/23/08 ECF No. 57); a multi-day civil jury trial involving a malicious prosecution case in *Bennett v. R&L Carriers* in December 2009 as co-counsel with my

then partner Jack Donohue for over \$3.2 Million verdict, and Judge Payne reduced the verdict to approximately \$2.1 million conform to the Virginia punitive damage cap and was affirmed on appeal all the way to the United States Supreme Court with its denial of cert. and denial of reconsideration of cert.; a multi-day civil jury trial involving a one of the first ever tried whistleblower action cases in the United States under Sarbanes-Oxley in *Jones v. Southpeak, et al.*, 3:12-cv-445-REP-DJN, in July 2013 for a verdict of \$693,000.00, in which Judge Payne approved attorney fees of \$354,127.05, and approved the hourly rate of James Thorsen at \$420.00 an hour and Jesse Roche at \$250.00 an hour (ECF Doc. No. 193), and Judge Payne's decisions were affirmed on appeal. The last jury trial prior to the instant case was a one day civil jury trial involving a personal injury car accident case representing a retired Henrico County police officer on July 10, 2018 and settled for the amount demanded after Plaintiff's first witness testified in *Minor v. Julian* (Young, Judge). More recently, in the case of *Cannada v. Old Dominion Brush Co.*, 3:20-cv-952, counsel's fees were unopposed by employment defense counsel and approved by Judge Hudson of this Court for James Thorsen in the amount of \$550/hour and for Jesse Roche in the amount of \$350/hour, which covered the period of December 2019 to March of 2022.

4. I am AV rated by Martindale Hubble and have been for over twenty years. I have been recognized as a Legal Elite by Virginia Business Magazine in the area of Labor/Employment for the years 2000, 2003, 2008, and other years, and in the area of Civil Litigation for 2004. I am listed in *Best Lawyers in America* for the last ten or more years. I have been recognized as SuperLawyers for many years and including the current year of 2022-2023 in the field of employment litigation. Further, I have written for and

lectured at various Virginia Continuing Legal education courses in Virginia on employment and related laws for over 10 years and on behalf of the Virginia Bar Association on employment law, and have been a guest speaker before the EEOC. In February of 2014, I was appointed by the Chief Judge of the Circuit Court of the City of Richmond as a Substitute Judge for the General District Court for a six year term. I had to resign in August of 2018 when I moved my residence from the City of Richmond to Henrico County. I have been and currently am a member of the Virginia Trial Lawyers Association (VTLA), and a past member of NELA and VELA and the Virginia Bar Association.

5. I have personal knowledge of the matters set forth in this Affidavit and would be competent to testify as to them at a hearing or trial on the matter. This includes knowledge of the legal billing rates of for plaintiff employment counsel in the Richmond Division of the Eastern District of Virginia of other similarly situated plaintiff and defendant counsel in the Richmond area.

6. Jane Belkin (“Belkin”) first formally retained me on or about September 23, 2022 to file her Objection in the current case (ECF No. 53).

7. Assisting me in this case with his valuable expertise is my longtime associate Jesse A. Roche, Esquire, who has over 12 years of civil litigation experience before this Court.

8. The services rendered by James B. Thorsen, Esquire on behalf of Belkin relating to her objection to the Settlement Agreement between Plaintiffs, Fred Haney, Marsha Merrill, Sylvia Rausch, Stephen Swenson, and Alan Wooten (“Plaintiffs”) and Defendants, Genworth Life Insurance Company and Genworth Life Insurance Company

of New York (“Genworth”) (collectively, the “Parties”), No. 3:22-cv-55, from September 16, 2022 to November 30, 2022, not including the anticipated participation at the next hearing of December 13, 2022, at the hourly billing rate of \$600 an hour for James Thorsen, \$400 an hour for his associate Jesse Roche, Esq. and at \$150.00 an hour for our 30 year experienced paralegal Kim Maiden, and are outlined as follows:

<b>Attorney</b>	<b>Hourly Rate</b>	<b>Total Hours</b>	<b>Total Fee</b>
James B. Thorsen, Esq.	\$600.00	33.10	\$19,860.00
Jesse Roche, Esq.	\$400.00	26.70	\$10,680.00
Kim Maiden, paralegal	\$150.00	4.50	\$675.00
<b>TOTAL</b>	-	64.30	\$31,215.00

9. The services rendered by James B. Thorsen, Jesses Roche and Kim Maiden to the plaintiff included, but were not limited to, initial consultations and numerous follow-up meetings with plaintiff, case research on Defendant and class counsel, and potential fact witnesses; investigating facts of the case; reviewing documents obtained in discovery from two prior and related class action litigation of the Defendant; legal research on the current litigation and issues related to the plaintiff’s case, and other legal issues relevant to this case, particularly the filing requirements the Objector and extensive negotiations with Defendant and other Objectors and attendance at a phone conference with this Court at 3:15 on November 16, 2022 and appearing in person at the November 17, 2022 hearing in this case. The undersigned expects to incur additional billable time from November 30, 2022 going forward in preparation for response to any possible post-trial motions, the filing of additional or supplementary pleadings contesting of attorney fees, contra declarations and in person attendance at the

scheduled hearing set for December 13, 2022 and time after that hearing in possible additional work, research, hearings, and appeals related to post-trial motions for the underlying case. The time set forth herein in Exhibit "A" was recorded contemporaneously with the work being done in almost every instance, and where not, a low to reasonable estimation of time was listed.

10. The legal fees listed above in paragraph 8 are the market rate fees in Richmond, Virginia, for the attorneys and staff listed as supported by the accompanying declarations of Tim Schulte, Esq. who is well recognized, experienced and practicing attorney in Richmond, Virginia, in the field of employment law and who is not associated with my office or this case. Said legal fees claimed in this case were necessary, reasonable, and not intentionally duplicative, and were incurred in representing the Objector's interests in this matter and represent the market rate in Richmond, Virginia for attorneys' fees of all attorneys and their legal assistant associated with the successful representation of the Objector in cases the same or similar to the instant case summarily described as a complex civil litigation on behalf of the Objector against a publicly traded multi-national billion plus dollar insurance company.

11. The statements made herein are true and correct to the best of my present information and belief and with knowledge of the requirements for the filing of a request for attorney fees in those federal statutory attorney fee cases as set forth by the United States Supreme Court in *Perdue v. Kenny A.*, 130 S. Ct. 1662 (2010); the Fourth Circuit Court of Appeals in *Grissom v. The Mills Corp.*, 549 F.3d 313 (4th Cir. 2008), *McAfee v. Boczar*, 738 F.3d 81 (4th Cir. 2013) and *Jones v. Southpeak Interactive Corp. of Delaware*, 777 F. 3d 658 (4<sup>th</sup> Cir. 2015); and by the United States District Courts for the

Eastern District of Virginia in the cases of *Halcom v. Genworth Life Ins. Co.*, No. 3:21-CV-19, 2022 WL 2317435 (E.D. Va. June 28, 2022) and *Skochin v. Genworth Fin., Inc.*, No. 3:19-CV-49, 2020 WL 6536140 (E.D. Va. Nov. 5, 2020).

FURTHER AFFIANT SAYETH NOT.



James B. Thorsen

SWORN TO AND SUBSCRIBED before me this 30<sup>th</sup>, day of November, 2022.

My Commission expires: 8 / 31 / 24

ID No.: 364733



Notary Public